

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON DC 20268-0001

Evansdale Branch
Evansdale, Iowa 50707

Docket No. A2011-103

PUBLIC REPRESENTATIVE'S REPLY COMMENTS

(December 12, 2011)

I. INTRODUCTION AND BACKGROUND

This case concerns an appeal of the Postal Service's decision to close the Evansdale Branch, in Black Hawk County, Iowa, and provide delivery and retail services by independent post office under the administrative responsibility of the Waterloo Main Post Office, located about 3 miles away. Administrative Record Item No. 7. The discontinuance study was based on declining workload, volume, and the ability of the Postal Service to provide service by alternate means. *Id.*, Item, No. 1 at 1.

Appeals of the Postal Service's decision to close the Evansdale station were filed by Craig Chilton and Mayor Chad Deutsch.¹ The Commission accepted the appeals in Order No. 896, issued October 5, 2011 (Order No. 896).²

¹ See Petition for Review filed by Craig Chilton, October 11, Determination to Close Post Office, September 21, 2001 and Petition for Review filed by Evansdale Mayor Chad Deutsch, September 30, 2011 (Deutsch Petition). See also Participant Statement, November 4, 2011 (Chilton's Participant Statement) and Initial Brief of Petitioner Chad Deutsch, November 21, 2011 (Brief).

² Order No. 896 appears at 76 FR 63332 (October 12, 2011).

II. STANDARD OF REVIEW AND APPLICABLE LAW

The Commission's authority to review post office closings provided by 39 U.S.C. § 404(d)(5). The Commission is aware of this provision and the standards that apply to its review of appeals of post office closing decisions. These Reply Comments therefore incorporate by reference the recitation of standards and law in Commission Order No. 974 at 6 (Part V) in Docket No. A2011-34, Innis, Louisiana.

III. PARTIES' POSITIONS

A. The Petitioners' Positions

Petitioner Chilton's position. In addition to his Petition, Mr. Chilton also filed a Participant Statement. Therein, he presents a candid perspective on the Postal Service's decision and the discontinuance process. In particular, he:

- asks (Chilton's Participant Statement 2 and 9) why the Postal Service is closing the profitable Evansdale office if its interest is in saving money, and further asserts that the closing is unconscionable and irrational;
- questions (*id.* at 3) the accuracy of the savings estimate, contending that the only significant savings are utilities, as an obligation for most of the remaining 5-year lease remains and clerk's salary may be continued;
- maintains (*id.* at 3) the Evansdale Branch not only serves Evansdale residents, but also persons within Waterloo city limits who live closer to this facility than to the Waterloo Post Office;
- claims (*id.* at 3-4 and 6) notice was improper, unlawful, and insufficient, stressing that to patrons, the Postal Service's distinction between a branch and an office is meaningless, that 60 days' notice was not provided; and that only boxholders received written notification; and

- asserts (*id.* at 8) that questionnaires were distributed at the community meeting, rather than beforehand.

Finally, with respect to the effect on the community, Petitioner Chilton says: “I submit that the effect upon the community served by the closing of the Evansdale Post Office (Evansdale, Elk Run, and the neighboring eastern portions of Waterloo) will be a profoundly negative one.” *Id.* at 9.

Mayor Deutsch’s position. On brief, Mayor Deutsch highlights several deficiencies in the record, especially as they relate to notice and timing of critical disclosures and issuances. See *generally* Brief at 5-8. The deficiencies also include the alleged absence of a formal proposal to close the facility and of a demonstration or explanation of how the Postal Service reached a conclusion that the change would “provide a maximum degree of regular and effective service.” *Id.* at 18.

The Mayor quotes extensively from responses to the questionnaire, pointing to these as support for his disagreement with the Postal Service’s characterization that only 15 of the respondents to the questionnaire expressed “unfavorable” positions and 46 expressed no opinion. *Id.* at 17. He further asserts, among other things related to finances, that office revenue (in the mid-to-upper \$270,000s over the course of the past 3 years) has been “fairly steady and showed an increase from FY 2009 to FY 2010.” *Id.* at 19.

B. The Postal Service’s Position

The Postal Service asserts that the Commission lacks jurisdiction to hear the Petitioners' appeal because this case concerns a branch, not an office.³ Postal Service Comments at 1. In particular, it asserts that section 404(d) does not apply to retail locations, such as branches, which are subordinate to a Post Office. *Id.*

Notwithstanding this position, the Postal Service asserts that is satisfied the salient provisions fo section 404(d)(5)(A) –(C) by distributing questionnaires (as well as making questionnaires available over the counter) and inviting comments on the possible discontinuance of the Evansdale branch. *Id.* at 2. It asserts that this approach furnished customers with well over 60 days' notice of the Postal Service's intention to consider discontinuance. *Id.*

The Postal Service further maintains that the Final Determination “demonstrates thoughtful consideration” of the issues raised by Petitioner. In response to Petitioners' references to the convenience of the Evansdale facility, it notes that there are numerous retail service options available, including at the Waterloo Main Post Office (3 miles away); the Raymond Post Office (4 miles away); the Automated Postal Center at the Cedar Falls Post Office; plus the ability to purchase stamps through the internet or at stamp consignment centers. *Id.* at 4. As to security, it says it explained that customers may place locks on their mailboxes, provided there is a slot large enough to deposit mail. *Id.* It says senior citizens and the disabled may obtain many postal services from carriers, which often eliminates the need to visit a retail facility, and that where existing delivery methods cause extreme hardships, alternate arrangements can be made with the administrative postmaster. *Id.* at 5.

The Postal Service also provides this clarification about the alleged lack of a plan to establish rural delivery: “There is no need to establish contract or rural carrier service for the Evansdale community, because it was available before the discontinuance of the Evansdale Branch. Evansdale Branch Post Office Box customers purchased Post

³ Comments of the United States Postal Service, December 2, 2011 (Postal Service Comments).

Office Box delivery service as a supplement to the free carrier delivery service they already received. *Id.* at 3.

As to questions whether it considered growth estimates, the Postal Service asserts that the record reflects that it considered this issue and found that Evansdale has experienced minimal growth in recent years. *Id.* at 5. It also says that its categorization of patrons' positions based on survey responses is not, in itself, dispositive. Instead, it maintains that the important issue is whether effective and regular service can be provided in the event of a discontinuance and, in this case, the conclusion was affirmative. *Id.* at 6-7.

With respect to economic savings, the Postal Service agrees that the lease expires on January 31, 2016, but asserts that savings will arise from that point forward, and perhaps earlier if it is able to sublease the property. It therefore contends that it is not necessary to deduct \$19,200 (the annual rent) from the anticipated annual savings. *Id.* at 7. More generally, it responds to the assertion that the Evansdale branch is profitable by saying that it did not cite profitability as a reason for its decision to study the Evansdale, but instead refers to workload, volume, and alternate access, and claims that Petitioners present no authority for the assertion that a retail facility's profitability precludes its discontinuance. *Id.*

IV. PUBLIC INTEREST ISSUES

Due process is a cornerstone of the Government's dealings with persons affected by its actions. By extension, the interests of the general public in appeals of post office closings generally pertain to due process considerations, such as the accuracy of the record, the transparency of the Postal Service's reasoning, and its responsiveness to affected patrons. This case is complicated by the fact that the Postal Service (i) classifies the facility as a branch and, (ii) at least traditionally, maintains that certain notice and other procedural requirements do not attach the closing or consolidation of a branch or office. The Postal Service recently modified its closing

regulations to provide patrons of stations and branches with more procedural rights, but it initiated the closing of the Evansdale facility prior to the effective date of the new regulations; therefore, its decisionmaking process here more closely follows the traditional Postal Service approach.⁴

A. Question of relationship between closing the profitable Evansdale Branch and Postal Service's stated goals

Both Petitioners note that the Evansdale Branch is profitable and question the size of the estimated savings. The Postal Service's response to the profitability question is twofold: it says it did not cite this as a reason for the discontinuance and the Petitioners failed to cite any authority for why they raised this as a bar to discontinuance. Postal Service Comments at 7. However, the Petitioners clearly indicate that their authority is common sense, if not business sense. Petitioner Chilton, for example, states:

Except for the fact that the USPS has been claiming that it needs to make major cutbacks on expenses for various reasons, this issue of the closing or consolidation of up to 3,653 post offices either would not be under consideration, or else it would involve far fewer post offices. In light of the desire to save money, I submit that any decision of the part of the USPS that clearly would result in the loss of sales and revenue for the USPS would be irrational and ill-conceived at best, and totally counterproductive at worst. It makes no sense to dispose of a profitable entity of the stated objective for doing so is to save money.

Chilton Participant Statement at 2. He provides figures from the Administrative Record showing revenue of more than \$250,000 in FY 2010.

⁴ See Postal Service Comments at 7, fn. 3 on the timing question.

Petitioners' overarching point is that Evansdale, like some other branches and stations, does not fit the mold of low revenue offices in areas with declining population. Instead, it appears to be a thriving office, and the Postal Service's own documentation shows expected growth. Thus, keeping it open could *help* the Postal Service improve its bottom line, not harm it. However, the standard the Postal Service invokes is whether effective and regular service can be provided following the discontinuance. The difficulty with this response is that, having long since written the qualifier "maximum degree" out of the equation, it is possible that almost any substitute service will provide "effective and regular service" to postal patrons.

In situations where retail facilities are clearly far above a "minimal or low" revenue point, patrons understandably expect a better explanation for discontinuance. It would be helpful if the Commission would encourage the Postal Service to more fully address its rationale.

B. Accuracy of the Record

Petitioners here, as in other cases, note that a continuing lease obligation undermines the Postal Service's savings estimate. The Postal Service acknowledges it is obligated until January 31, 2016, but claims that this does not warrant reducing the annual savings, for any year, by the annual lease cost of \$19,200.

The Petitioners argue for more accuracy in the Postal Service's savings estimate. The Commission has encouraged the Postal Service to improve several aspects of its savings presentations. The Evansdale annual lease cost is more than \$19,000. It is likely that under most circumstances, a business with outlets similar to those the Postal Service maintains would regard an annual lease cost of this amount a material factor affecting the soundness of its annual savings estimates, at least until it became clear that a sublease had been arranged. The Postal Service's omission of this offset undermines the soundness of its savings estimate.

Mayor Deutsch questions the accuracy of the Postal Service's characterization of the responses to its survey. The Postal Service contends that its assessment of opposition, support, or neutrality is not, in itself, dispositive on the question of the facility's fate. The fact that the Postal Service includes an assessment of this sort (and does so routinely in these cases) in its supporting documentation understandably leads those who read the record to think there is something meaningful in the exercise. If there is not, the Postal Service might consider eliminating this assessment from its documentation. If it serves any purpose, it would be useful if the Postal Service would clarify the role it plays.

VI. CONCLUSION

Review of the Evansdale Administrative Record and other submissions in this case leads to the conclusion that the discontinuance of the Evansdale Branch means the Postal Service is electing to close a profitable retail facility as part of an initiative most might think was oriented toward offices with low or minimal revenue in areas of declining population and/or declining postal needs. The Commission may want to consider encouraging the Postal Service to view these situations through a different lens. Aside from notice and other procedural points, the points the Petitioners raise go to the heart of the process in which the Postal Service and the Commission are enmeshed. Their concerns go straight to the heart of transparency about "why" Evansdale has been caught up in an initiative seemingly aimed at low-performing offices and "whether" the consolidation will really help the Postal Service achieve its stated objectives.

As for notice, the Petitioners note that Evansdale patrons did not receive the same type of procedural due process as patrons of post offices. It is understandable that they question the distinction the Postal Service has traditionally drawn between offices, on the one hand, and branches, on the other. This discrepancy in treatment will be lessened under the new regulations. It is unfortunate that some Evansdale patrons

may not have received notice or had an opportunity to comment; however, it appears that the Postal Service is aware that many patrons are dissatisfied with the alternative plan, but proceeded with its plan based on reference to the standard it invokes, namely “effective and regular service” via alternative means. The appropriateness of this standard, and the role “maximum degree” plays, is an area the Commission and the Postal Service may need to explore as this closing, consolidation, and discontinuance process unfolds because the public will likely continue to raise questions about it.

Respectfully submitted,

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